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D. Agazarian

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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-190511

DATE: March 24, 1978

MATTER OF: H. D. Anderson - Subsistence -
Per Diem - Actual Expenses

- DIGEST:**
1. Employee of National Oceanic and Atmospheric Administration on temporary duty in Washington, D.C., a designated high-rate geographical area, was authorized actual expenses of subsistence. Employee failed to itemize actual subsistence expenses and claims reimbursement on a flat-rate basis. Claim on a flat-rate basis may not be allowed since employee may not be reimbursed on per diem basis and voucher does not identify daily expenditures for meals so that such expenses may be reviewed by the agency to determine that they are proper subsistence items.
 2. Where employee was authorized subsistence on actual expense basis for temporary duty in Washington, D.C., a designated high-rate geographical area, and he failed to maintain daily record of subsistence expenses, his travel orders may not be retroactively amended to provide reimbursement on per diem basis. Travel orders may not be revoked or modified retroactively so as to increase or decrease rights that have accrued and become fixed under law and regulation except to correct error apparent on face of orders or when facts demonstrate a provision previously

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definitely intended has been omitted through error or inadvertance. Record shows no such error or omission in original orders. See B-176236, October 30, 1972.

This matter concerns a request for an advance decision by Mr. John Houston, an authorized certifying officer of the National Oceanic and Atmospheric Administration (NOAA), as to whether Mr. H. D. Anderson, an agency employee, may be reimbursed the amount of \$46.80 for subsistence expenses during the time that he was performing temporary duty in Washington, D.C., a high-rate geographical area.

The record shows that Mr. Anderson was authorized travel expenses by NOAA Travel Order No. 20-7-W3A-0733 dated June 17, 1977, in connection with round-trip travel between Kansas City, Missouri, and Washington, P.C., incident to temporary duty. In connection with his temporary duty in Washington, D.C., Mr. Anderson submitted a voucher for per diem expenses of \$87.50, \$35 per day for a 2½-day period from June 20 through June 22, 1976. The agency states that Mr. Anderson was authorized reimbursement for actual subsistence expenses and that accordingly he was required to itemize his expenses on a daily basis in order to be allowed payment for the amount claimed. He was allowed \$40.70 which represents the cost of 2 nights' lodgings for which receipts have been submitted. The remainder of the claim in the amount of \$46.80 has been disallowed due to the lack of itemization of expenses.

Mr. Anderson states that he was unaware of the requirement for him to maintain an account of his actual expenses and therefore he is unable to reasonably reconstruct his subsistence expenses. He has submitted a reclaim voucher for the \$46.80 disallowed by NOAA.

Mr. Anderson's Travel Order dated June 17, 1977, states in block 12 entitled "per diem rate(s)" that reimbursement would be "in accordance with Travel Handbook." The NOAA Travel Handbook dated March 1976 provides in pertinent part as follows:

"1-8.6 Travel to High Rate Geographical Areas

"a. Actual subsistence expense reimbursement shall normally be authorized or approved whenever temporary duty travel is performed to or in a location designated as a high rate geographical area, except when the high rate geographical area is only an enroute or intermediate stop-over point at which no official duty is performed. Therefore, all NOAA travelers performing TDY at any place designated as a metropolitan high rate area normally will claim reimbursement on an actual expense basis. An exception may occur when circumstances of the travel clearly show the cost to the government would be less if the lodgings plus \$14 system were used. In such cases the official approving the travel should specify in Block #12 of the CD-29 the per diem rate (not to exceed \$33) for that specific travel assignment.

"b. Officials listed in Part 1-1.4d shall approve travel on an actual expense basis for the high rate metropolitan areas listed below:

<u>"DESIGNATED HIGH RATE GEOGRAPHICAL AREAS</u>	<u>PRESCRIBED MAXIMUM DAILY RATES</u>
* * * * *	
"Washington, D.C. (all locations within the corporate limits of Washington, D.C.; and the County of Arlington and the City of Alexandria, VA)."	\$42

The above-cited provision of the NOAA handbook implements the provisions of para. 1-8.1 of FPMR Temporary Regulations A-11, May 19, 1975, as amended by FPMR Temp. Reg. A-11, Supp. 1, Attachment A, June 27, 1975.

We note that FPMR Temp. Reg. A-11, Supp. 3, September 28, 1976, provides that the Prescribed Maximum Daily Rate for the

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Washington, D.C., area is \$50 and expands the definition of Washington, D.C., to include Montgomery and Prince George's Counties in Maryland, and Arlington, Loudon, and Fairfax Counties, and City of Alexandria in Virginia. The changes were incorporated into the NOAA Travel Handbook by NOAA Circular 76-78, October 1, 1976.

In view of the reference in block 12 of Mr. Anderson's travel order to the Travel Handbook and the pertinent provisions of the Travel Handbook with regard to temporary duty in high-rate geographical areas, including Washington, D.C., we find that Mr. Anderson was authorized reimbursement of actual expenses of subsistence rather than a flat-rate per diem allowance.

Upon the completion of Mr. Anderson's temporary duty the agency issued a Travel Order dated June 30, 1977, which stated that the original travel orders were amended to authorize per diem not to exceed \$35 per day. The general rule is that travel orders may not be revoked or modified retroactively after travel has been performed so as to increase or decrease rights that have accrued and have become fixed under applicable law and regulation. B-176236, October 30, 1972. The exception to this rule is that travel orders may be amended to correct an error apparent on the face of the orders or where the facts and circumstances demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertance. B-176236, *supra*. There has been no such error or omission in Mr. Anderson's original travel order and, therefore, the amendment is not effective.

With regard to reimbursement of actual subsistence expenses para. 1-8.5 of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) provides as follows:

"1-8.5 Evidence of actual expenses. Actual and necessary subsistence expenses incurred on a travel assignment for which reimbursement is claimed by a traveler shall be itemized in a manner prescribed by the heads of agencies which will permit at least a review of the amounts spent daily for lodging, meals, and all other items of subsistence expenses. Receipts shall be required at least for lodging."

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Paragraph 1-8.3 of the FTR provides that agencies shall review actual expenses claimed by the traveler to determine whether they are proper subsistence items. An employee is responsible for maintaining a contemporaneous record of expenses incurred incident to official travel and for submitting a voucher itemizing such expenses. See FTR paras. 1-11.2 and 1-11.3.

In accordance with the above provisions we have held that the submission of a voucher which does not clearly identify daily expenditures for meals is insufficient to allow computation of daily subsistence expenses so that such expenses may be compared to the daily maximum rate allowable for per diem. Matter of John D. Sammon, B-184614, October 5, 1976; B-116908, October 12, 1965. Since the rate of \$35 per day claimed by Mr. Anderson for subsistence expenses for the 2½ days of his temporary duty assignment is not an itemization of actual costs, but represents a per diem rate of \$35 per day, his claim may not be allowed on the basis presented.

Accordingly, the reclaim voucher may not be certified for payment.

R. F. Kellan
Deputy Comptroller General
of the United States